

AMENDED IN SENATE AUGUST 18, 2014
AMENDED IN ASSEMBLY APRIL 29, 2014
AMENDED IN ASSEMBLY APRIL 3, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2616

Introduced by Assembly Member Skinner

February 21, 2014

An act to *amend Section 4663 of*, and to add Section 3212.13 ~~to~~ to, the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2616, as amended, Skinner. Workers' compensation: hospital employers: compensation.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain public employees, the term "injury" includes heart trouble, hernia, pneumonia, meningitis, lower back impairment, and other injuries and diseases.

This bill would provide, with respect to hospital employees who provide direct patient care in an acute care hospital, that the term "injury" includes a methicillin-resistant *Staphylococcus aureus* skin infection (MRSA skin infection) that develops or manifests itself during the period of the person's employment with the hospital. This bill would create a presumption that a MRSA skin infection arises out of and in the course of the person's employment if the MRSA skin infection

develops or manifests, as specified. This bill would prohibit attributing a MRSA skin infection that develops or manifests in those cases to any disease or skin infection existing prior to that development or manifestation.

Existing law requires any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury to address the issue of causation of the permanent disability, subject to exemptions for specified injuries or illnesses.

This bill would also exempt the above medical condition for hospital employees who provide direct patient care in an acute care hospital from the application of this requirement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) According to the United States Department of Labor, health
- 4 care is the second fastest growing sector of the United States
- 5 economy, currently employing over 16 million workers. Women
- 6 represent nearly 80 percent of the health care workforce.
- 7 (b) By the nature of their profession, health care workers are in
- 8 constant danger of being directly exposed to many infectious
- 9 diseases and indirectly exposed through contact with various pieces
- 10 of equipment, chemicals, and clothing.
- 11 (c) Registered nurses constitute the largest occupation within
- 12 the health care sector and number over 2.5 million, of which 70
- 13 percent are employed in hospitals.
- 14 (d) Health care-acquired infections in California hospitals
- 15 account for an estimated 200,000 infections and 12,000 deaths
- 16 annually, according to the State Department of Public Health.
- 17 (e) According to the Office of Statewide Health Planning and
- 18 Development, in 2007 there were 52,000 cases of patients infected
- 19 by methicillin-resistant *Staphylococcus aureus* (MRSA) at hospitals
- 20 across the state.
- 21 (f) Public safety employees, such as police officers and
- 22 firefighters, already have guaranteed access to the workers'
- 23 compensation system for methicillin-resistant *Staphylococcus*
- 24 *aureus* skin infection (MRSA skin infection), HIV, cancer,

1 leukemia, meningitis, back injuries, and other work-related illnesses
2 and injuries. However, presumptive eligibility for workers'
3 compensation is nonexistent for health care workers.

4 (g) Due to the rise in work-related illnesses and injuries,
5 including a MRSA skin infection, it is most appropriate to protect
6 health care workers by ensuring access to workers' compensation
7 for health care workers who suffer workplace injuries or contract
8 infectious diseases.

9 SEC. 2. Section 3212.13 is added to the Labor Code, to read:

10 3212.13. (a) In the case of a hospital employee who provides
11 direct patient care in an acute care hospital, referred to in this
12 section as hospital employee, the term "injury," as used in this
13 section, includes a methicillin-resistant *Staphylococcus aureus*
14 skin infection (MRSA skin infection) that develops or manifests
15 itself during a period of the person's employment with the hospital.
16 The compensation awarded for that injury shall include full
17 hospital, surgical, medical treatment, disability indemnity, and
18 death benefits, as provided by this division.

19 (b) (1) A MRSA skin infection that develops or manifests itself
20 shall be presumed to arise out of and in the course of employment.
21 This presumption is disputable and may be controverted by other
22 evidence, but if controverting evidence is not produced, the
23 presumption shall prevail.

24 (2) The MRSA skin infection presumption shall be extended to
25 a hospital employee following termination of service for a period
26 of 60 days, commencing with the last date actually worked.

27 (c) A MRSA skin infection that develops or manifests itself in
28 circumstances described in subdivision (b) shall not be attributed
29 to a disease or skin infection existing prior to that development or
30 manifestation.

31 (d) For the purposes of this section, "acute care hospital" means
32 a health facility as defined in subdivision (a) or (b) of Section 1250
33 of the Health and Safety Code.

34 SEC. 3. Section 4663 of the Labor Code is amended to read:

35 4663. (a) Apportionment of permanent disability shall be based
36 on causation.

37 (b) Any physician who prepares a report addressing the issue
38 of permanent disability due to a claimed industrial injury shall in
39 that report address the issue of causation of the permanent
40 disability.

1 (c) In order for a physician's report to be considered complete
2 on the issue of permanent disability, the report must include an
3 apportionment determination. A physician shall make an
4 apportionment determination by finding what approximate
5 percentage of the permanent disability was caused by the direct
6 result of injury arising out of and occurring in the course of
7 employment and what approximate percentage of the permanent
8 disability was caused by other factors both before and subsequent
9 to the industrial injury, including prior industrial injuries. If the
10 physician is unable to include an apportionment determination in
11 his or her report, the physician shall state the specific reasons why
12 the physician could not make a determination of the effect of that
13 prior condition on the permanent disability arising from the injury.
14 The physician shall then consult with other physicians or refer the
15 employee to another physician from whom the employee is
16 authorized to seek treatment or evaluation in accordance with this
17 division in order to make the final determination.

18 (d) An employee who claims an industrial injury shall, upon
19 request, disclose all previous permanent disabilities or physical
20 impairments.

21 (e) Subdivisions (a), (b), and (c) shall not apply to injuries or
22 illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3,
23 3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10,
24 3212.11, 3212.12, 3212.13, 3213, and 3213.2.